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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,297	03/29/2004	Herbert Dingfelder	5858-02300	1804
35617	7590	06/17/2005	EXAMINER	
DAFFER McDANEIL LLP P.O. BOX 684908 AUSTIN, TX 78768				FITZGERALD, JOHN P
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 06/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

EJC

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/812,297	DINGFELDER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John P. Fitzgerald	2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 25 March 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,16 and 17 is/are allowed.
- 6) Claim(s) 3 and 5-11 is/are rejected.
- 7) Claim(s) 4,12 and 13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 March 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/14/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see pages 9 and 11, filed 25 March 2004, with respect to claim 2 have been fully considered and are persuasive. The previous rejection of claim 2 has been withdrawn.
2. In view of Applicant's amendment of the claims, all previous rejections under 35 U.S.C. 112, 2<sup>nd</sup> paragraph have been withdrawn, however, new rejections are present.
3. Applicant's arguments with respect to claim 15 have been considered but are moot in view of the new ground(s) of rejection.
4. The indicated allowability of claim 3-7 and 9-14 is withdrawn in view of the newly discovered reference(s) (cited by Applicant) to DE 196 19 728 to Klaar (English translation of the German reference accompanies this Office Action). Rejections based on the newly cited reference(s) follow.

### ***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 14 March 2005 was filed after the mailing date of the non-final Office Action on 15 December 2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Objections***

6. Claim 2 is objected to because of the following informalities: the number “30” inappropriately appears in line 4. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 6 and 8-10 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Namely, claim 6 recites “a brush” in line 2. It is unclear if the claim is referring to the “brush” previously claimed in independent claim 3. Similarly, claim 8 recites “at least one sensor” in line 2. It is unclear if the claim is referring to the “at least one pneumatic sensor” recited in independent claim 3. Lastly, the identical argument is made for claims 9-10, since “a pressure source” is recited, and independent claim 3 already recites a “a source of pressurized gas.”

***Claim Rejections - 35 USC § 102***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claim 3 and 6-11 are rejected under 35 U.S.C. § 102(b) as being anticipated by DE 196 19 728 to Klaar (see English translation accompanying this Office Action). Klaar discloses a device for determining the length (i.e. wear) of at least one contact brush (2) in a sliding contact

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track (3) system (see Figs. 1-7) having: a source of pressurized gas via an air connection/line (19) to the at least one brush; at least one pneumatic sensor (a pressure sensor, as recited in claim 8) (22) via a measuring line (34) mechanically connected to the at least one brush; means for supplying the pneumatic sensor with pressurized gas from the source of pressurized gas (see English translation, page 15) for measuring the difference (i.e. pressure differential) in pressure; an evaluation unit (20) which involves a programmable data processing unit electrically connected to the pneumatic sensor having outputs (35, 36) connected to a display means which may include visual and/or acoustic means that indicate a pressure drop (i.e. change in differential pressure), the drop representing a measure of the length of the brush (as recited in claim 3); wherein the pneumatic sensor comprises at least one flow passage (see Figs. 1 and 3) extending parallel to the brush, a length and or cross-section (of a piston) of the flow passage being changed according to a position of the brush (as recited in claim 6); a lateral bore is provided on the at least one pneumatic sensor, the bore being normally covered or obstructed by the brush and normally uncovered or unobstructed only when the brush exhibits a certain extent of wear, so that gas can escape through the bore (see English translation, pages 16 and 17) (as recited in claim 7); wherein a plurality of pneumatic sensors (see Fig. 7) are connected to a pressure source by means of a manifold (as recited in claim 9); the manifold having a switching function (i.e. valves) to selectively supply pressurized gas to the pneumatic sensors (see English translation, pages 18-21) (as recited in claim 10); wherein timing (i.e. via a clock) of the pressurized source is adapted to be actuated by a clock (see English translation, page 9, last paragraph) (as recited in claim 11).

***Claim Rejections - 35 USC § 103***

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
12. Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 196 19 728 to Klaar. Klaar discloses the claimed invention having all the elements stated previously. Klaar does not specifically disclose a device for determining the length of a contact brush wherein the pneumatic sensor is incorporated in the brush holder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the pneumatic sensor within the brush holder disclosed by Klaar, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse, 86 USPQ 70 (CCPA 1950)*.
13. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 196 19 728 to Klaar. Klaar discloses a method for determining the length of at least one contact brush in a sliding contact track including the steps of feeding gas into a pneumatic sensor of a brush holder (see Figs. 1-7) and measuring/determining the pressure drop of the gas. Klaar does not specifically disclose a the pneumatic sensor is adapted to be integrated into the brush holder and the sensor accommodating the at least one contact brush. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the pneumatic sensor within the brush holder disclosed by Klaar, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse, 86 USPQ 70 (CCPA 1950)*.

***Allowable Subject Matter***

14. Claims 1, 2 and 16 and 17 are allowed over the Prior Art of record.

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15. Claims 4 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fitzgerald whose telephone number is (571) 272-2843. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams, can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JF  
06/13/2005

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